

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

32125

FILE: B-219930 **DATE:** August 30th, 1985
MATTER OF: Ford Construction Company, Inc.

DIGEST:

1. Agency's rejection of only bid received on the basis of unreasonable price, resulting in cancellation of solicitation, is proper when the bid price is approximately 27 percent higher than the government estimate.
2. Issuance of a request for proposals after cancellation of invitation for bids on the basis of price unreasonableness, instead of negotiation with sole bidder responding to the invitation, is proper, since regulations permit but do not require such negotiation and since cancellation determination does not authorize negotiation on this basis.

Ford Construction Company, Inc. protests the cancellation after bid opening of invitation for bids (IFB) No. F04699-85-B-0072. The IFB was issued on June 25, 1985 as a small business set-aside by the Sacramento Air Logistics Center, McClellan Air Force Base, California. The Air Force canceled the invitation for hazardous waste cleanup after the contracting officer determined that Ford's bid, the only one received, was unreasonable as to price.

The protester contends that the difference between its bid and the government estimate was not a compelling reason to reject its bid and cancel the invitation and argues that the Air Force should have negotiated with it instead.

We dismiss the protest.

The Federal Acquisition Regulation (FAR) provides that after bids have been opened, award must be made to the lowest responsible bidder unless there is a compelling reason to reject all bids and resolicit. FAR, § 14.404-1(a)(1) (FAC No. 84-5, Apr. 1, 1985). The regulation, as supplemented by the Department of Defense (DOD), specifically provides that a solicitation may be canceled after bid opening if the prices of all otherwise

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acceptable bids are unreasonable. FAR, § 14.404-1(c)(6); DOD FAR Supp. § 14-404-1 (DAC No. 84-10, Jan. 10, 1985). Such a determination of unreasonableness involves broad discretion on the part of the contracting officer, and we generally will not disturb it absent a showing of fraud or bad faith. Mid South Industries, Inc., B-216281, Feb. 11, 1985, 85-1 CPD 175. In this regard, we have recognized that a determination of price reasonableness properly may be based upon comparisons with such things as a government estimate, past procurement history, current market conditions, or any other relevant factors. Omega Container, Inc., B-206858.2, Nov. 26, 1982, 82-2 CPD ¶ 475.

In this procurement, Ford states that the contracting officer informed it that the determination to cancel was based on a comparison of its bid with the government estimate. Ford's bid price of \$3,566,600 was \$760,000 higher than the government estimate of \$2,806,000. We have found cancellation to be justified where the low responsive bid was 24 percent greater than the government estimate. See IFR, Inc., B-209929, May 17, 1983, 83-1 CPD ¶ 524; Building Maintenance Specialists, Inc., B-186441, Sept. 10, 1976, 76-2 CPD ¶ 233. We believe the contracting officer here also was justified in determining that the Ford bid price--approximately 27 percent higher than the government estimate--was unreasonable. Further, the protester has not alleged fraud or bad faith. Therefore, we have no basis to object to the agency's rejection of protester's bid and the resulting cancellation of the invitation.

Alternatively, the protester requests that the agency be directed to negotiate with it so that it can present evidence as to the reasonableness of its price. Contrary to the protester's apparent belief, once an IFB is canceled because of price unreasonableness, the FAR does not require that the completion of the acquisition by negotiation be limited to negotiations with those who submitted bids. The FAR provides agencies with this option, but it is only an option, and it may be utilized only if such action is authorized in the cancellation determination. FAR §§ 14.404-1(e)(1) and 15.103. Otherwise the contracting officer must proceed with a new acquisition. FAR § 14.404-1(e)(2).

Here, Ford has neither alleged nor shown that negotiation was authorized with it, the sole bidder, in the determination to cancel the IFB, and the Air Force advises us that on August 13, it issued a new solicitation

pursuant to FAR § 14.404-1(e)(2). We have no legal basis to object to this action.

The protest is dismissed.

A handwritten signature in black ink that reads "Ronald Berger". The signature is written in a cursive style with a large, looping "R" and a stylized "B".

Ronald Berger
Deputy Associate
General Counsel